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8 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
9 OAKLAND DIVISION
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11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 SHIV D. KUMAR,

15 Defendant.
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Case No. 4:17-cr-00114-JST

DECLARATION OF SALLY SHAFFER

JUDGE: Hon. Jon S. Tigar
CTRM: 3, 3rd Fl. (Oakland)
DATE: November 17, 2017
TIME: 9:30 a.m.

1 I, Sally Shaffer, hereby declare as follows:

2 1. I have personal knowledge of the facts set forth in this Declaration. If called as a
3 witness, I could and would competently testify to the facts stated herein under oath.

4 2. I have extensive work experience and a master's degree in teaching English as a
5 second language, as summarized in Exhibit 1, a true and correct copy of my resume (with my
6 home address and personal contact information removed). I currently serve as Academic
7 Coordinator for the International Education Center (IEC) at Diablo Valley College, 2151 Salvio
8 St., Suite 210, Concord, CA 94520, Telephone: 925.676.4600, Fax: 925.676.4200, where we
9 teach English as a second language to many students from other countries every year.

10 3. One of the initial tasks in teaching English to a student is correctly assessing their
11 existing reading, writing, listening and speaking ability in English, so they can be placed in the
12 proper level of instruction. I have assessed hundreds of students using standardized testing
13 materials that allow teachers to determine their reading, writing, and listening ability with a great
14 deal of accuracy, in my experience. We assess spoken English through a brief interview.

15 4. On November 14, 2017, at the request of attorney Sanjay Bhandari, I evaluated
16 the English language ability of Shiv Kumar, an approximately 60-year old man of Indian origin,
17 using our standard testing materials and procedures, in person at IEC in Concord, for
18 approximately 90 minutes. Exhibit 2 is a true and correct copy of my letter summarizing the tests
19 used and Mr. Kumar's results. In sum, in my opinion, Mr. Kumar's English language ability is at
20 level 2 out of 6 in the scale we use at IEC, and A1/A2 level in the Common European
21 Framework (CEFR).

22 5. Exhibits 3 and 4 are true and correct copies of a one-page grid and a longer
23 overview of the CEFR, both of which I find to be accurate and helpful. As explained therein,
24 someone with Mr. Kumar's level of English is considered a basic user of English, able to
25 understand clearly articulated speech about areas of immediate personal relevance and
26 experience, but likely not propositionally and linguistically complex speech on abstract topics,
27 *see* Ex. 4 at 8; and able to understand short, simple texts on familiar matters or job-related
28 language, but not lengthy or complex texts, *see* Ex. 4 at 10.

6. I performed this analysis of Mr. Kumar's English in the same manner as I usually analyze English language ability, and with no interest in whatever legal proceeding Mr. Kumar is in. Mr. Kumar's attorney gave me no direction to achieve any particular test result, and promised to pay the IEC an hourly rate of \$75 for the time IEC staff spent on this matter regardless of outcome.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 14th day of November, 2017 in Concord, California.

By:

Sally Shaffer